APPEAL NO. 020204
FILED MARCH 14, 2002

This case returns following our remand in Texas Workers' Compensation Commission Appeal No. 012727, decided December 19, 2001, where we remanded the case for the required carrier information. That information was placed in the record and forwarded to the appellant/cross-respondent (claimant). No hearing on remand was held, and the hearing officer reissued her prior decision and order without substantive modification. With respect to the sole issue before her, the hearing officer determined that the compensable injury sustained by the claimant on _____, extends to and includes lumbosacral facet syndrome, but does not include an injury to the cervical spine at C3-4, C4-5, and C5-6. On appeal, the claimant urges that the determination relating to the cervical spine be reversed. The respondent/cross-appellant (self-insured) urges that the determination that the injury extends to and includes lumbosacral facet syndrome is against the great weight of the evidence. In response to the claimant's appeal, the self-insured urges affirmance with respect to the determination relating to the cervical spine. The claimant did not respond to the carrier's appeal.

DECISION

Affirmed.

At issue in this case is whether the hearing officer erred in determining that the compensable injury sustained by the claimant extends to and includes lumbosacral facet syndrome, but does not include an injury to the cervical spine. Conflicting evidence was presented at the hearing regarding the extent of injuries sustained by the claimant on the date of injury. Extent of injury is a question of fact for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence and to decide what facts that evidence established. Garza v. Commercial Ins. Co., 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Ins. Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). An appellate body is not a fact finder, and does not normally pass upon the credibility of witnesses or substitute its own judgment for that of the trier of fact, even if the evidence would support a different result. National Union Fire Ins. Co. v. Soto, 819 S.W.2d 619, 620 (Tex. App.-El Paso 1991, writ denied). When reviewing a hearing officer's decision for factual sufficiency of the evidence we should reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust and we do not find it to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, we affirm the hearing officer's decision and order.

The true corporate name of the self-insured is **(SELF-INSURED)** and the name and address of its registered agent for service of process is

CEO
HOSPITAL ADMINISTRATOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Philip F. O'Neill
Appeals Judge